

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA**

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. 22-CR-341-JFH

BILLY SCOTT MCDONALD,

Defendant.

OPINION AND ORDER

Before the Court is an opposed motion to determine Indian Country as a matter of law (“Motion”) filed by the United States of America (“Government”). Dkt. No. 27. The Government seeks a determination that 13563 E. 570 Road, Rose, Oklahoma and 13564 E. 570 Road, Rose, Oklahoma are within the boundaries of the Cherokee Nation. *Id.* at 1. The Government represents that defense counsel objects to the Motion. *Id.*

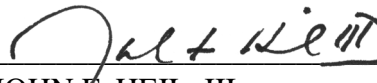
A “district court can find, as a matter of law, a geographic area or particular location is Indian Country, and then instruct the jury to determine factually whether the offense occurred there.” *United States v. Roberts*, 185 F.3d 1125, 1139-40 (10th Cir. 1999). The party seeking to invoke the jurisdiction of a federal court must demonstrate by a preponderance of the evidence that the case is within the Court's jurisdiction. *United States v. Bustillos*, 31 F.3d 931, 933 (10th Cir. 1994).

Here the Government submits for the Court’s review two maps of the Cherokee Nation, showing that 13563 E. 570 Road, Rose, Oklahoma and 13564 E. 570 Road, Rose, Oklahoma are within the Nation’s boundaries. MCN Boundary Map (last accessed November 3, 2022), <https://cherokee.maps.arcgis.com/apps/webappviewer/index.html?id=921f8793c9914a7792274f72441fad8d>. The Court finds this sufficient to demonstrate by a preponderance of the evidence

that the locations of the charged events are within Indian Country. A jury, however, will determine the factual question of whether anything of a criminal nature occurred at 13563 E. 570 Road, Rose, Oklahoma and/or 13564 E. 570 Road, Rose, Oklahoma.

IT IS THEREFORE ORDERED that the opposed motion to determine Indian Country as a matter of law filed by the United States of America at Dkt. No. 27 is GRANTED.

Dated this 4th day of November 2022.



JOHN F. HEIL, III
UNITED STATES DISTRICT JUDGE